

FILED
ADAMS COUNTY
CLERK OF COURTS
2016 AUG -9 PM 2:25

Larry J. Miller
CLERK

IN THE COMMON PLEAS COURT OF ADAMS COUNTY, OHIO
CIVIL DIVISION

WESLEY PARKER, on behalf of
RYAN PARKER, a minor
502 Pleasant View Drive
Manchester, OH 45144

CASE NO.: CVB20160313

Judge:

and

WESLEY PARKER
502 Pleasant View Drive
Manchester, OH 45144

and

TARA MILLEFCHIK
502 Pleasant View Drive
Manchester, OH 45144

Plaintiffs,

COMPLAINT FOR PERSONAL
INJURY; JURY DEMAND
ENDORSED HEREON

vs.

GRACO CHILDREN'S PRODUCTS, INC.
a Delaware Corporation
c/o Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

and

NEWELL RUBBERMAID, INC,
a Delaware Corporation
c/o Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

Defendants.

**ADAMS COUNTY COMMON PLEAS COURT
SUMMONS**

Plaintiff(s)
Parker, Wesley
Behalf Of Ryan Parker, A Minor
502 Pleasant View Drive
Manchester, Oh 45144

RULE (4)

-VS-
Defendant(s)

Case No. CVB20160313

Graco Children's Products, Inc
C/O Corporation Service Com.
2711 Centerville Road, St. 400
Wilmington, De 19808

Newell Rubbermaid, Inc,
C/O Corporation Service Com.
2711 Centerville Road, St. 400
Wilmington, De 19808

To the above named defendant(s):

You are hereby summoned that a complaint (copy of which is hereto attached and made a part hereof) has been filed against you in this court by the plaintiff(s) named herein.

You are required to serve upon the plaintiff's attorney, or upon the plaintiff if (he/she) has no attorney of record, a copy of your answer to the complaint within twenty-eight (28) days after the service of their summons upon you, exclusive of the date for service. Said answer must be filed with this Court within three (3) days after service on the plaintiff's attorney.

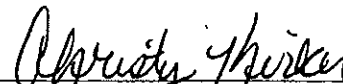
The name and address of the plaintiff's attorney is as follows:

**KENNETH J. IGNOZZI
DYER, GAROFALO, MANN & SCHULTZ
TALBOTT TOWER, SUITE 1400
131 NORTH LUDLOW STREET
DAYTON, OH 45402
(937)223-8888**

If you fail to appear and defend, judgment by default will be taken against you for the relief demanded in the complaint.

Larry Heller, Clerk of Courts

August 17, 2016


CHRISTY KIRKER, Deputy Clerk

FIRST CLAIM FOR RELIEF

1. At all relevant time, Defendant, Graco Children's Products, Inc. (hereinafter "Graco"), was and is upon belief, a Delaware limited liability company, that manufactures products for infants and toddlers, such as car seats, strollers and high chairs, and authorize the distribution for sale of said products within the State of Ohio.

2. At all relevant times, Defendant Newell Rubbermaid, Inc., (hereinafter "Newell") was and is upon belief, a Delaware limited liability company, and Graco's parent company, and authorized the manufacturer, design and distribution for sale of said products within the State of Ohio.

3. Plaintiffs Wesley and Tara Millefchik are the natural parents and guardian of Plaintiff, Ryan Parker, a minor.

4. At all relevant times, Plaintiff Ryan Parker, a minor, was restrained in a Graco car seat, equipped with a QT or QT3 harness buckle (hereinafter "the QT buckle")

5. On or about August 9, 2014, Plaintiffs Tara Millefchik and Ryan Parker, a minor, were passengers in a motor vehicle being operated by Plaintiff Wesley Parker, traveling on a southbound direction of State Route 41, in the Township of Meigs, Adams County Ohio, when said vehicle experienced mechanical problems and caught on fire. Plaintiffs Tara Millefchik and Wesley Parker, furiously, attempted to remove Plaintiff Ryan Parker from his Graco Nautilus Elite model car seat, however the seat buckle would not unlatch, and Plaintiffs Wesley Parker and Ryan Parker, a minor sustained significant injuries, as a direct and proximate result of a dangerous and hazardous condition created and/or perpetuated by Defendants, Graco and Newell or known by Defendant to exist, to wit: defective car seat harness QT or QT2 buckles.

6. Defendants Graco and Newell has known for years and had many complaints regarding the subject car seat harness QT or QT3 buckles, made from 2007 through 2013, and did not correct the problem or otherwise warn the public of the defective child seats in which the harness buckle, which is a component of the car seats were unreasonable difficult to unlatch, or simply would not unlatch. The aforementioned conduct by the Defendant amounts to a flagrant disregard for the safety of the public as defined by Ohio Revised Code 2307.80.

7. Defendants Graco and Newell, negligently failed to actively warn the public so as to prevent the exposure of car seat's owners or others to the dangerous and hazardous condition created by the failure of the harness buckles, causing substantial injury to Plaintiffs.

8. The subject Graco Nautilus Elite model car seat was defective and unreasonably dangerous when placed into the stream of commerce by Defendants Graco and Newell, by reason of the following product defects:

1. Manufacturing Defect

The subject Graco Nautilus Elite model car seat was defective in manufacture and construction as defined in Ohio Revised Code 2307.74;

2. Design Defect

The Graco Nautilus Elite model car seat equipped with the QT buckles was defective in design or formulation as defined in Ohio Revised Code 2307.75 in that;

3. Consumer Expectation Standard

The product was defective because it did not conform to the representations made by Defendants Graco and Newell as defined in Ohio Revised Code 2307.77;

4. Risk Benefit Standard

The foreseeable risks associated with the design of the QT buckles, as defined in Ohio Revised Code 2307.75, exceeded the benefits associated with that design or formulation; and

5. Warning Defect

The subject Graco Nautilus Elite model car seat was defective due to inadequate warning or instruction, as they are defined in Ohio Revised Code 2307.76, in that Defendants Graco and Newell failed to provide adequate warning or instruction that a manufacturer or seller exercising reasonable care would have provided concerning the risk of injury and likely seriousness of harm for use of the product.

9. As a proximate result of the defective nature of the subject QT buckles designed, manufactured and otherwise introduced into the stream of commerce by Defendants Graco and Newell, Plaintiff, Ryan Parker, a minor, suffered serious and permanent injuries and damages as follows:

- a. Severe and permanent injuries;
- b. Great pain and suffering both physical and emotional, and loss of ability to perform usual functions with said pain, suffering and loss of ability to perform usual functions reasonably certain to continue in the future;

- c. Reasonable and necessary medical expenses in excess of \$100,000.00, as well as further medical expenses to be incurred in the future.
- d. Significant burns, scarring and disfigurement

10. The conduct of Defendants Graco and Newell, in designing, manufacturing and supplying the subject Graco Nautilus Elite model car seat equipped with the QT buckle, used by Plaintiffs, on August 9, 2014, constitutes misconduct by the manufacturer or supplier that manifested a flagrant disregard for the safety of the persons who might be harmed by the product in question, such that an award of punitive damages against Defendants Graco and Newell, pursuant to Ohio Revised Code 2307.80 is proper in this case.

WHEREFORE, Plaintiff Wesley Parker, on behalf of Ryan Parker, a minor, pursuant to Ohio Revised Code Sections 2309.01 and 2307.80, demands judgment against Defendants Graco Children's Products Inc., and Newell Rubbermaid Inc., for compensatory and punitive damages in an amount in excess of \$25,000.00 and for such attorney's fees as the court deems reasonable.

SECOND CLAIM FOR RELIEF

11. Plaintiffs incorporate each and every allegation contained in the First Claim for Relief as though fully rewritten herein.

12. As a proximate result of the defective nature of the subject QT buckles designed, manufactured and otherwise introduced into the stream of commerce by Defendants Graco and Newell, Plaintiff, Wesley Parker, suffered serious and permanent injuries and damages as follows:

- a. Severe and permanent injuries;
- b. Great pain and suffering both physical and emotional, and loss of ability to perform usual functions with said pain, suffering and loss of ability to perform usual functions reasonably certain to continue in the future;
- c. Reasonable and necessary medical expenses in excess of \$100,000.00, as well as further medical expenses to be incurred in the future;
- d. Significant buns, scarring and disfigurement;
- e. Lost earnings in an amount to be determined;

WHEREFORE, Plaintiff Wesley Parker pursuant to Ohio Revised Code Sections 2309.01

and 2307.80, demands judgment against Defendants Graco Children's Products Inc., and Newell Rubbermaid Inc., for compensatory and punitive damages in an amount in excess of \$25,000.00 and for such attorney's fees as the court deems reasonable.

THIRD CLAIM FOR RELIEF

13. Plaintiffs incorporate each and every allegation contained in the First Claim for Relief as though fully rewritten herein.

14. Plaintiffs, Wesley Parker and Tara Millefchik are the natural parents of Plaintiff, Ryan Parker, a minor.

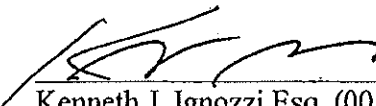
15. As a proximate result of the occurrence as set forth in the First Claim for Relief, Plaintiffs Wesley Parker and Tara Millefchik have lost the companionship, love, affection, comforts, consortium and joys of their child, Ryan Parker.

16. The aforesaid negligence of Defendants was the direct and proximate cause of the injuries and damages to Plaintiffs Wesley Parker and Tara Millefchik.

WHEREFORE, Plaintiffs Wesley Parker and Tara Millefchik pursuant to Ohio Revised Code Sections 2309.01 and 2307.80, demands judgment against Defendants Graco Children's Products Inc., and Newell Rubbermaid Inc., for compensatory and punitive damages in an amount in excess of \$25,000.00 and for such attorney's fees as the court deems reasonable.

Respectfully Submitted,

DYER, GAROFALO, MANN & SCHULTZ


Kenneth J. Ignozzi Esq. (0055431)

Attorney for Plaintiffs

Talbott Tower, Suite 1400

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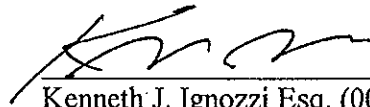
kignozzi@dgmslaw.com

JURY DEMAND

Now come Plaintiffs by and through counsel, and hereby demands a trial by jury on all issues of this matter.

Respectfully Submitted,

DYER, GAROFALO, MANN & SCHULTZ



Kenneth J. Ignozzi Esq. (0055431)

Attorney for Plaintiffs

Talbott Tower, Suite 1400

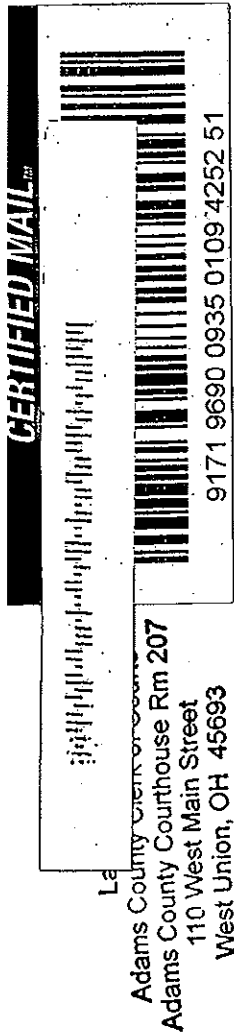
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